

## **AMENDED AND RESTATED EMPLOYMENT AGREEMENT**

This amended and restated employment agreement ("Agreement") is made effective as of May 1, 2012 (the "Effective Date") by and between Iowa State University, ("University"), and Fred Hoiberg, ("Hoiberg"). The University is desirous of employing Hoiberg as the University's head men's basketball coach and Hoiberg is desirous of being so employed.

The parties recite and declare that:

1. The parties entered into an agreement effective April 30, 2010 employing Hoiberg as head men's basketball coach.
2. The University and Hoiberg are both desirous of amending and restating that agreement as amended in a single document incorporating all prior and current terms and conditions still in effect. Any terms and conditions contained in the earlier agreement but not contained in this Agreement are no longer effective;

In consideration of the mutual covenants and promises of the parties hereto, the sufficiency of which the parties hereby acknowledge, the Parties agree as follows:

### **I. TERM OF EMPLOYMENT**

1. Hoiberg's contract of employment will continue through April 30, 2020, subject to the terms provided herein (the "Term"). At the conclusion of the 2014-15 basketball season, the parties shall discuss the possible extension of the term of this Agreement. Each period from May 1 - April 30 during the Term shall be referred to as a "Contract Year."

### **II. COMPENSATION**

1. The base compensation ("Base Compensation") to be paid by the University to Hoiberg for services performed as head men's basketball coach shall be the sum of \$375,000 per year payable by the University to Hoiberg in monthly installments during the term of this Agreement. Hoiberg acknowledges his Base Compensation will remain at \$375,000 throughout the Term of this Agreement unless specifically amended.

2. Hoiberg will also receive additional guaranteed compensation ("Additional Compensation") in the amount of \$825,000 per Contract Year for the secondary services outlined in Paragraphs II(2)(a) and 2(b). The total annual Additional Compensation shall be increased \$100,000 in each Contract Year, beginning May 1, 2013, contingent on Hoiberg receiving a satisfactory annual evaluation from the Director of Athletics as outlined in Paragraph III (6); it being understood that a satisfactory annual evaluation may only be withheld in the event that Hoiberg fails to satisfy a majority of the bullet points detailed in said paragraph (under a reasonable, objective, third-person standard).

Payments for Additional Compensation shall be made on a pro-rata basis at the end of each month. Hoiberg specifically understands that the Additional Compensation is separate

from Hoiberg's Base Compensation, and therefore is not subject to any additional benefits such as retirement contributions. The Base Compensation and the Additional Compensation shall collectively be referred to as the "Total Compensation."

a) Hoiberg agrees to participate in the public relations and endorsement activities set forth herein ("Activities"), and in weekly coach's television and radio shows as reasonably designated by University and approved by the University's Director of Intercollegiate Athletics (the "Director"). For purposes of this Agreement, the Activities shall include, but not be limited to, making public appearances on behalf of certain University sponsors, speaking at Cyclone Club and fund raising events, facilitating and maintaining important University-corporate relationships, and speaking at University related sports and service-oriented activities. Such appearances and speaking engagements shall be reasonably limited and coordinated, and also shall not interfere with Hoiberg's primary duties and schedule as the head men's basketball coach.

b) University agrees that it will enter into or arrange for separate contracts with sports equipment and apparel firms providing for Hoiberg's endorsement and appearances in relation to the firms' products. Hoiberg shall reasonably cooperate and assist in securing such contracts. Hoiberg agrees to use such equipment and apparel in practices, camps and games in accordance with the terms of such separate contracts (unless required otherwise by NCAA or Conference rules). Hoiberg agrees that any equipment, basketballs, clothing, shoes or paraphernalia (collectively, "Equipment") provided by the firms shall be distributed by Hoiberg for use by the men's basketball program, players and participants at the University, and such property shall not be considered the property of Hoiberg; provided that, Equipment distributed to Hoiberg for his personal use under contracts for sponsorship and endorsement shall be assigned to Hoiberg so that the parties can meet the requirements of such contracts.

In case University elects not to continue programs under Subparagraphs a) or b) which require Hoiberg's duties, University agrees Hoiberg's Compensation shall not be reduced as a result of University's election and will be paid as if all such duties had been fully performed.

3. In addition to the above Compensation, University guarantees and agrees to pay the following financial performance incentives ("Performance Incentives") for the corresponding achievements set forth below:

- a) Hoiberg shall receive \$250,000 each time the University's men's basketball team (the "Team") advances to the Final Four;
- b) Hoiberg shall receive \$100,000 each time the men's basketball team wins or ties for the Conference regular season championship.
- c) Hoiberg shall receive \$50,000 each time the Team wins the Conference post-season basketball tournament.

- d) Hoiberg shall receive \$50,000 each time the Team is selected (or automatically qualifies) to participate in the NCAA men's basketball tournament.
- e) Hoiberg shall receive \$25,000 each time the men's basketball team wins a game in the NCAA men's basketball tournament.
- f) Hoiberg shall receive \$25,000 each time he is named the Big 12 Coach of the Year (including sharing any such honor).
- g) Hoiberg shall receive \$25,000 each time he is named National Coach of the Year (maximum of one time per year; and shall include sharing any such honor).

Payments for Performance Incentives required under this Paragraph II(3) shall be made to Hoiberg in their entirety within 60 days after the achievement has been met.

4. Except as specifically provided in this Agreement, the Parties agree that all compensation shall be subject to the University's usual and customary payroll deductions in accordance with University regulations and practices for similar employees. Hoiberg shall be entitled to participate in University's group medical insurance program, retirement program, voluntary payroll deduction program, annual leave, sick leave and all other group employment benefits, in accordance with University plans, regulations and practices applicable to Professional and Scientific employees of University and on no less favorable terms than those provided to the University's head football coach. Notwithstanding the above, upon termination of employment for any reason, Hoiberg agrees that University shall not make any payment on account of accrued vacation leave.

5. In addition to Hoiberg's annual compensation and benefits as described above, Hoiberg shall be provided with use of one (1) automobile representative of a head men's basketball coach in the Big 12 Conference, as part of the Athletic Department's car program, which is provided to facilitate Hoiberg in carrying out his duties. In addition, the University shall pay Hoiberg's initiation and annual membership dues, but excluding minimum food and beverage requirements, to the Ames Country Club.

### III. EMPLOYMENT DUTIES & STANDARDS OF PERFORMANCE OF COACH AND UNIVERSITY

1. In furthering his responsibilities to the University as defined in this Agreement, Hoiberg agrees to provide a dedicated effort in management and oversight of the men's basketball program, and to use reasonably diligent efforts in seeking to comply with all rules, regulations, policies, and decisions established or issued by the Board of Regents or the University. University agrees to exercise reasonably diligent effort to inform Hoiberg of the policies of the Board of Regents and University.

2. Hoiberg shall conduct such travel as is necessary or customary to carry out his duties as head men's basketball coach, and shall be entitled to reimbursement for all transportation costs and expenses incurred pursuant to his performance of duties and services under this Agreement, consistent with University regulations and within the budget allowed.

3. Hoiberg shall use reasonably diligent efforts in seeking to adhere to the academic standards and requirements of the University in regard to the recruiting and eligibility of prospective and current student-athletes. Hoiberg agrees to use reasonable efforts to supervise the Basketball Staff with the goal that they understand it is their duty to adhere to the academic standards and requirements of the University in regard to the recruiting and eligibility of prospective and current student-athletes. For purposes of this Agreement, the persons supervised by Hoiberg, collectively called "Basketball Staff," are defined as the three assistant basketball coaches, all basketball administrative, recruiting and operational support staff, and the basketball graduate assistants and student managers.

4. Hoiberg shall carry out the general responsibilities for operation of the men's Basketball Program, including the budget and the recruiting, training, supervision, and evaluation of student-athletes and Basketball Staff. Hoiberg shall be responsible for evaluating, recruiting, training and coaching student-athletes to compete against college competition in a men's Basketball Program. Hoiberg shall use reasonable judgment in fairly administering disciplinary regulations as they apply to student athletes in the men's Basketball Program. Hoiberg shall use reasonable judgment with respect to protecting the health and welfare of the student athletes under his supervision.

5. Hoiberg shall use reasonably diligent efforts in seeking to adhere to the constitution, bylaws, rules, regulations and policies, and the official interpretations thereof, of the Big 12 Conference or its successor conference (hereinafter referred to as "the Big 12 Conference") and the National Collegiate Athletic Association as now constituted or as the same may be amended during the term hereof, provided Hoiberg has received reasonable prior notice of all such items, including without limitation as set forth in this paragraph. Hoiberg shall take reasonable steps in seeking to assure that the men's Basketball Staff follows the procedures adopted by the Athletic Department to assure compliance with NCAA rules. University agrees to use reasonable diligence in informing Hoiberg and his Basketball Staff of the Conference and NCAA constitution, bylaws, rules, regulations, policies and official interpretations on an annual basis.

6. Hoiberg shall directly report to the Director. Hoiberg's performance shall be annually reviewed by the Director in writing (to take place within thirty [30] business days of the conclusion of each Contract Year). Performance review will be based on several factors, including, but not limited to:

- Meeting and complying with the requirements of this Agreement and any other agreements related hereto;

- Compliance with NCAA, Conference and University rules and regulations;
- Athletic performance of the team, including, but not limited to, the overall win-loss record and win-loss record within the Conference;
- Academic performance of his players;
- Successful management of the team, including the on and off-court behavior of the players and coaches;
- Responsible and effective budget management; and
- Positive representation of the University and the University's athletic programs in private and public forums.

7. University agrees to provide dedicated effort and to act in a reasonably diligent manner so as to support Hoiberg in carrying out his responsibilities as head men's basketball coach.

#### IV. OUTSIDE INCOME

1. Hoiberg is authorized to receive compensation for activities that are not a part of his University responsibilities and that are appropriate to the promotion of the positive values of the athletic program. The following general terms and conditions shall apply to each case in which Hoiberg seeks to or makes arrangements to earn outside income as a result of his being the University's head men's basketball coach:

a) Hoiberg shall have prior approval from the Director for engaging in activity which results in athletically related income and benefits from outside sources of \$1,000 or greater. Such approval shall not be arbitrarily, capriciously or otherwise unreasonably delayed, conditioned or withheld. If Hoiberg requests approval in writing from the Director for engaging in an activity, and no denial of approval has been issued within three (3) business days, the activity shall be deemed to be approved. In each case where approval is denied, Hoiberg shall be given a statement of the reasons in writing.

b) In no case shall outside activities materially conflict with the performance of Hoiberg's duties under this Agreement. Activities which have been approved, and are conducted as disclosed, shall not be deemed to materially conflict with Hoiberg's duties. Upon the request of the Director, Hoiberg shall update the Director regarding his marketing, speaking, charitable, public relations, and endorsement activities that are not a part of his University responsibilities.

- c) University shall have no responsibility or liability for any claims arising from outside activities unless such liability arises from the negligent or other conduct of the University.
- d) During the time he remains as head men's basketball coach, Hoiberg is authorized to conduct athletic camps upon University's campus, and retain the net proceeds thereof, provided such camps are provided in compliance with University and Athletic Department rules, regulations and procedures. University agrees to use reasonable diligence in informing Hoiberg and his Basketball staff of the University and Athletic Department rules, regulations, and procedures with respect to such camps on an annual basis.
- e) Hoiberg agrees to disclose all sources of outside income if required by and in conformity with University and NCAA rules and procedures.
- f) In undertaking such outside activities, Hoiberg shall adhere to NCAA rules and Paragraph VII(4) of this Agreement.

#### V. TERMINATION BY UNIVERSITY

1. Basis for Termination for Just Cause or Other Disciplinary Action. The University shall have the right to terminate this Agreement or to exercise other disciplinary or corrective action for Just Cause, as defined herein and in accordance with this Agreement. The term "Just Cause" shall solely be defined as the following acts committed by Hoiberg during the term of this Agreement between the parties:

- a) A serious or intentional breach of his material duties of this Agreement or a serious and continuous refusal to perform such duties.
- b) Any conduct by Hoiberg resulting in a formal filing of criminal charges alleging a felony or crime of moral turpitude (excluding without limitation minor offenses unrelated to this Agreement, such as traffic or parking violations or like matters) which has a materially injurious impact on the University and its athletic program.
- c) Failure of Hoiberg to reasonably address a serious or intentional violation of any law, rule, regulation, constitutional provision, bylaw, and the official interpretations thereof, of the University, the Iowa State Board of Regents, the Big 12 Conference or the NCAA (but specifically excluding minor University rules, laws, regulations, provisions, and policies) by a member of the Basketball Staff, of which violation Hoiberg had prior actual knowledge; *provided, however*, that this subparagraph shall not apply if Hoiberg has consulted with, and received the concurrence of, the Director or the Director of Compliance on a course of action to deal with the violation (it being understood that in the event Hoiberg consults with the

Director or the Director of Compliance, said individual must, with reasonable promptness appropriate to the circumstances, provide Hoiberg with a recommended course of action);

d) Prolonged absence from, and nonperformance of, duty without the consent of the Director, excluding any such absence and non-performance due to a cause governed by Paragraph V(7) below.

e) Hoiberg engages in:

- i.) Misconduct that constitutes a major violation of law and involves moral turpitude (such as fraud, embezzlement, theft, assault, illegal use, sale or distribution of drugs, sexual harassment, or racial discrimination); or
- ii.) Serious and morally reprehensible conduct which violates widely held community standards and brings gross and harmful disrespect and contempt upon Hoiberg and the University; or
- iii.) A pattern of behavior which when viewed as a whole, shows a lack of loyalty to, and contempt for, the University and its mission or goals; or
- iv.) Gross and intentional misconduct that involves conduct seriously prejudicial and harmful to the University; or
- v.) Knowingly assisting or causing other University employees to engage in conduct described in this Paragraph V(1).

2. The occurrence of an act by Hoiberg that qualifies as Just Cause sufficient to satisfy the provisions outlined under Paragraph V(1) hereof shall initially be determined by the Director and shall be subject to the terms and conditions of this Agreement. In making the determination, the Director shall act in good faith.

a) Basis for Termination. Termination for Just Cause by University may be invoked only for serious violations of employment duties as set forth in Paragraph V(1). Termination for Just Cause may not be invoked for:

- i.) Coaching decisions representing the exercise of professional judgment generally exercised by head college basketball coaches in the United States; or public unhappiness with such coaching decisions;
- ii.) Team performance, including but not limited to the win-loss record or public unhappiness with win-loss record; or
- iii.) Other general displeasure at the direction or success of the basketball program; or

- iv.) A violation for which Hoiberg has the right to remedy pursuant to Subparagraph V(2)(b) and Hoiberg has effectively remedied the violation within the required 30 days.

b) Right to Remedy Violation. Prior to issuing a notice of termination, University shall give Hoiberg written notice of a violation and provide Hoiberg the right to remedy it within 30 days unless the violation falls within one or more of the following categories:

- i.) The violation is one which would ordinarily be called "gross misconduct" as usually understood and interpreted in employment law in the United States such as conduct causing the University or another person serious loss or injury, acts of violence, acts generally known among college coaches to constitute serious cheating, or acts involving moral turpitude; or
- ii.) The results of the violation are such that a reasonable person would conclude that remedial action cannot effectively cure the violation; or
- iii.) The violation is one for which Hoiberg has been issued prior disciplinary action, whether under this clause or otherwise, and Hoiberg does not have reasonable justification for the repetition of the violation; or
- iv.) The violation is part of a pattern of serious and repetitive violations which, when viewed as a whole, the pattern of violations indicates knowing disregard of the responsibilities outlined in Section III.

c) Procedure for Termination. Prior to issuing a written notice of termination for Just Cause, Director shall meet with Hoiberg to discuss the allegations that may justify termination (the "First Meeting"). In the event Hoiberg has the right to remedy as provided under Paragraph V(2)(b) above, the Director shall meet with Hoiberg again after the close of the remedy period, but prior to issuing a written notice of termination (the "Second Meeting"). Once the Director has reasonably determined termination is warranted pursuant to Paragraphs V(1), V(2)(a) and V(2)(b), the Director shall provide to Hoiberg a written notice of termination for Just Cause, which shall include a short and plain statement of each of the allegations warranting termination. Pending termination (i.e., after any required Second Meeting, but prior to termination becoming effective), Hoiberg shall be suspended from his duties (with pay) effective two (2) working days after Hoiberg's receipt of such written notice of termination for Just Cause. Hoiberg shall have the right to make a written request for a review and hearing relating to the suspension and termination notice of the Director. The request must be made to the President within five (5) working days after the effective date of the suspension pending termination. The request shall state the grounds for seeking review. The hearing shall be set for a time no later than 30 days after receipt of the



request for review and hearing. Review and hearing will be before the President or the President's designee. If a designee conducts the review and hearing, the designee shall make a recommendation to the President in good faith. If the President appoints a designee, prior to making the University's final decision, the President shall meet with Hoiberg and the Director to hear the parties' views of the recommended decision. The President shall issue a final written decision (of the University) indicating the basis for the decision. The President's decision shall be subject to any review required by law or policy of the Iowa Board of Regents. If Hoiberg fails to request such review and hearing within such five working days, this Agreement shall be terminated for the causes cited in the original termination notice.

d) Other Disciplinary Action. In the case of disciplinary action not including termination, Hoiberg shall have the procedural right to make a written request for review and hearing relating to such disciplinary action. No disciplinary action may be instituted unless notice of such action is delivered to Hoiberg in writing, at least seven (7) days prior to the effective date of the action, detailing the reasons for such action. Hoiberg's request for review and hearing must be made to the President of University within thirty (5) days after notice is delivered. The request shall state the grounds for seeking review. If Hoiberg requests review and hearing, the disciplinary action shall not commence until after the President issues a decision after the hearing. Review and hearing will be before the President or the President's designee. If a designee conducts the review and hearing, the designee shall make a recommendation to the President, who shall meet with Hoiberg and the Director to hear the parties' views of the recommended decision. The President shall issue a final written decision together with the basis for the decision. The President's decision shall be subject to any review required by law or policy of the Iowa Board of Regents. If Hoiberg fails to request such review and hearing as provided above, all rights to a review and hearing set forth in this paragraph are waived.

i.) Limitation on Disciplinary Action. In no case shall any disciplinary action less than termination impose a sanction greater than sixty (60) days' suspension without pay, or a financial penalty (other than suspension without pay) greater than \$50,000. University may not impose both a suspension and a financial penalty.

3. Waiver of Administrative Procedure Act Procedures. Because of the specialized nature of coaching in intercollegiate athletics, in signing this Agreement, the parties both waive rights to the hearing procedures of the Iowa Administrative Procedure Act.

4. Effect of Termination with Just Cause. In the event this Agreement is terminated for Just Cause in accordance with the provisions outlined under Paragraphs V(1) and (2) hereof, all obligations of University to make further payments and/or to provide any other consideration hereunder shall cease as of the end of the month in which such termination occurs except for monies, salary, Performance Incentives, and expenses previously earned or achieved up to the effective date of termination (even if such amounts [including Performance

Incentives] are not yet due and payable as of the effective date of termination), which monies shall be paid within forty-five (45) days of the effective date of termination.

5. Termination Without Just Cause. The parties specifically agree that University may terminate this Agreement Without Just Cause upon 30 days' written notice, and that upon such termination, University shall be obligated to pay Hoiberg the amount provided by Paragraph V(6)(a) within 45 days of the effective date of termination. University in its sole discretion shall have the right to relieve Hoiberg of his duties during this 30 days' notice period.

6. Liquidated Damages Payable by University. Whether on the basis of termination Without Just Cause, or if it is judicially determined that University did not have Just Cause for termination, that Hoiberg was constructively discharged or that damages are due for unlawful termination of this Agreement, the parties specifically agree that damages due to Hoiberg from termination of this Agreement are specifically limited as follows:

a) The University will be required to pay to Hoiberg an amount equal to 50 percent of the entire Total Compensation remaining for the balance of the Term of this Agreement as if this Agreement had not been terminated and all services had been fully performed, together with earned performance incentives. The payment shall be paid in a lump sum within 45 days of the effective date of termination by University, and shall not include any benefits such as health insurance, vacation payout or retirement contributions. In addition, the University shall remain obligated to pay Hoiberg all monies, salary, bonuses, and expenses previously earned or achieved up to the effective date of termination (even if such amounts [including Performance Incentives] are not yet due and payable as of the effective date of termination), which monies shall be paid within forty-five (45) days of the effective date of termination.

b) In no case shall the University be liable for the loss of any collateral business opportunities or any other benefits, perquisites or income resulting from activities such as, but not limited to, speaking engagements or other public relations activities, television or radio appearances, basketball manufacturer's contracts, endorsements, camps, apparel or shoe contracts, consulting relationships or any other sources that may ensue as a result of the University's termination of this Agreement.

The parties acknowledge that this provision regarding liquidated damages is agreed to giving consideration to the fact that termination of this Agreement may cause Hoiberg to lose certain benefits or supplemental compensation, which damages are extremely difficult to determine with certainty or fairly or adequately. The parties acknowledge that this limitation constitutes adequate and reasonable compensation considering other provisions or limitations could have been negotiated between the parties. The parties agree that this provision shall not be construed as a penalty. The parties further agree that said payment by the University shall not be subject to any obligation to mitigate damages by Hoiberg, whatsoever.

7. Automatic Termination upon Death or Disability of Hoiberg. This Agreement shall terminate if Hoiberg dies or if Hoiberg becomes totally disabled, such that he qualifies for full Long Term Disability and/or Life Insurance benefits, as the case may be, under University's Group Long Term Disability and Life Insurance Policies for employees of Hoiberg's classification; *provided, however*, that University shall be responsible for continuation of salary, consistent with University leave policies, through any required waiting period, if any, provided by the University's Group Long Term Disability and/or Life Insurance Policy until such time as disability benefits are payable. University shall not be obligated to pay remaining compensation after the date of termination, but shall pay all earned compensation, expenses, monies, and incentives due and/or earned up to the time of termination (even if such amounts [including Performance Incentives] are not yet due and payable as of the effective date of termination) to Hoiberg (or Hoiberg's personal representative) within forty-five (45) days of termination.

8. Warranty Regarding Prior Conduct. Hoiberg understands that the public views coaches as representatives of the institution and its values. Hoiberg is hired with the understanding that there are no events in his prior conduct which make him unfit to represent it. Hoiberg warrants and agrees as follows:

a) Except for those events fully disclosed to the Director prior to entry into this Agreement, that he is not aware of, nor has he in the last three years engaged in:

- Any prior conduct which constitutes a major violation of the provisions of the NCAA Manual or of any recognized athletic conference of which the University is a member;
- Any prior conduct involving violations of rules or regulations of a prior employing academic institution regarding academic integrity;
- Any prior conduct which constitutes a serious crime involving moral turpitude, violence or dishonesty;
- Any prior conduct which constitutes a felony or misdemeanor in which the victim was a student-athlete or student.

b) Hoiberg agrees that if the statements made above are false, University, in its discretion may terminate this Agreement upon written notice to Hoiberg pursuant to this Article V, unless the circumstances of such conduct have been disclosed to the University and University has retained Hoiberg's services after full disclosure of the prior conduct.

9. No Reassignment. University agrees that it does not have the power to reassign Hoiberg to another position without his prior written consent.

10. Guaranteed Compensation. The Total Compensation provided under Paragraph II(1) is guaranteed by University, which for purposes of this Agreement means that the Compensation shall be paid unless one of the following occurs:

- a) Hoiberg terminates this Agreement, resigns, or accepts other full time employment or publicly participates in a public announcement of his taking other full-time employment as provided by Section VI; or
- b) This Agreement is validly i) terminated or Compensation is validly reduced for disciplinary reasons for Just Cause as set forth in Paragraph V(1) and V(2); ii) terminated without cause, so long as University has met the obligations of Paragraphs V(5) and (6); or iii) a final judicial determination has been issued finding that the University constructively discharged Hoiberg, and the University has within 45 days of such final judicial determination paid the liquidated damages under Paragraph (V)(6) together with any statutory or judicially ordered interest; or
- c) Hoiberg dies or is totally disabled as determined under University's Group Long Term Disability and Life Insurance Policies for employees of Hoiberg's classification, and University has met its obligation as set forth in Paragraph V(7).

Nothing in this Paragraph V(10) shall be construed as a waiver of Hoiberg's right to seek a remedy in damages for breach of this contract by University.

## VI. TERMINATION BY COACH

1. Hoiberg shall provide prior written notice to the Director if he enters into negotiations for or publicly expresses bona-fide interest in other employment as head coach in the field of men's college basketball or as head coach or general manager in the National Basketball Association during the Term of this Agreement.

2. Without limiting Hoiberg's other rights of termination, the University acknowledges and agrees that Hoiberg shall have the right to immediately terminate this Agreement for the purpose of accepting employment as a men's NCAA Division 1 head college basketball coach or as a head coach or general manager with a team in the National Basketball Association (a "Coaching Termination"). Hoiberg acknowledges that University has expended significant effort and funds in recruiting and signing Hoiberg to this exclusive Agreement for his services, and that the position as head men's basketball coach is a unique and key University position. Should Hoiberg terminate this Agreement by resignation for the purpose of accepting employment as a men's NCAA Division I head college basketball coach or as a head coach or general manager with a team in the National Basketball Association ("NBA") prior to the expiration or earlier termination of this Agreement, or should Hoiberg assume duties as a men's NCAA Division I head college basketball coach or as a head coach

or general manager with a team in the NBA prior to the expiration or earlier termination of this Agreement, Hoiberg agrees University shall be entitled:

a) To terminate all unearned compensation and other obligations owed by University to Hoiberg under this Agreement, effective on the date of resignation or acceptance of such other employment, or Hoiberg's participation in public announcement of his acceptance of such employment, whichever is earlier. The University's future obligations shall cease, but the University must fulfill all of its outstanding obligations up to that date, including but not limited to the payment of all monies, salary, bonuses, and expenses previously earned up to the effective date of termination (even if such amounts [including Performance Incentives] are not yet due and payable as of the effective date of resignation), which shall be paid within forty-five (45) days of the effective date of resignation or acceptance of such other employment; and

b) To liquidated damages in the amount of \$500,000 ("Coach's Buy Out"). The parties acknowledge that this amount constitutes adequate and reasonable compensation considering other provisions or limitations could have been negotiated between the parties. The parties agree that this provision shall not be construed as a penalty. Notwithstanding the foregoing, the parties agree that after the Team completes its final game in the 2019-2020 season, Coach's Buy Out shall be reduced to Zero Dollars (\$0).

3. The parties acknowledge that Hoiberg was recruited as head Men's Basketball coach with the understanding that University does not intend to increase its academic admissibility and/or eligibility standards beyond the academic admissibility and eligibility standards for schools competing in NCAA Division 1 basketball. If University does increase its academic admissibility and/or eligibility standards above those required by the NCAA, Coach's Buy Out shall be reduced to Zero Dollars (\$0).

4. The University also agrees that Hoiberg shall have the right to immediately terminate this Agreement (without penalty) in the event the University materially and seriously breaches this Agreement and fails to cure such breach within thirty (30) days of receiving notice thereof. In such event, there shall be no Coach's Buy Out. In the event of such a termination by Hoiberg, if it is judicially determined the University's action amounted to constructive discharge, and Hoiberg shall be entitled to payment provided under Paragraph V(6).

5. Warranty Regarding Prior University Conduct. The University understands that Hoiberg accepted the position as head men's basketball coach with the understanding that there are no events in the University's prior conduct (including but not limited to the prior conduct of current and former University employees), which may adversely affect the Team. The University represents and warrants that it is not aware of nor has in the three years prior to the date of this Agreement engaged in (i) any conduct which constitutes a serious violation of the provisions of the NCAA Manual or of any recognized athletic conference; or (ii) any

conduct involving serious violations of rules or regulations of the University regarding academic integrity in the conduct of its athletic program. The University agrees that if the statements made above are not true, it shall be deemed a material and serious breach of this Agreement and Hoiberg in his discretion may terminate this Agreement pursuant to Paragraph VI(4) without any further obligation to University, including any obligation to pay liquidated damages.

6. Hoiberg may resign for reasons other than specified above in Paragraph VI(2) without any obligation to pay liquidated damages. Upon Hoiberg's resignation, University shall have no further obligation to pay Compensation except that the University must fulfill all of its outstanding obligations up to that date, including but not limited to the payment of all monies, salary, bonuses, and expenses previously earned up to the effective date of resignation (even if such amounts [including Performance Incentives] are not yet due and payable as of the effective date of resignation), which shall be paid within forty-five (45) days of the effective date of resignation.

## VII. MISCELLANEOUS PROVISIONS

1. Hoiberg shall have the right to select and retain assistant men's basketball coaches, decisions thereon to be made following prior consultation with the Director, or the Director's designee. While the duties of assistant coaches shall be assigned by the head coach, it is understood that the head coach and the assistant coaches are directly responsible, separately and collectively, to the Director, as are any other employees of the Department of Intercollegiate Athletics.

2. Both parties to this Agreement acknowledge that rules of the National Collegiate Athletic Association limit the number of assistant men's basketball coaches who may be employed by the University.

3. It also is understood that the assistant coaches are otherwise immediately responsible to the head coach.

4. Hoiberg does not have the right to permit others to use the name of Iowa State University, or its trademarks except in the following circumstances: a) Hoiberg may use, or permit others to use the name and trademarks with approval of the Office of Intellectual Property and Technology Transfer, b) Hoiberg may permit the name and trademarks to be used as necessary to carry out obligations of a contract approved pursuant to Paragraphs II(2) and IV(1)(a), as long as such use is limited to the use of his likeness wearing apparel with University's names and trademarks and mentioning the University's names or trademarks, so long as such use is consistent with the mission and values of University and c) Hoiberg may use the name and trademarks in conducting a University-supported athletic camp as permitted under Paragraph IV(1)(d). Hoiberg specifically shall not have the power to permit commercial use of the property, employees, name and trademarks of the University in any way which suggests that a product is endorsed or sanctioned by the University, except with permission of the University.

5. It is understood and agreed by the parties hereto that no amendments or alterations hereof shall be binding upon Hoiberg or the University, unless such alterations or amendments shall have been made or confirmed in writing by these same parties.

6. The Parties agree that no later than 360 days prior to the expiration of this Agreement, the Parties will enter into good faith negotiations on whether this contract should be extended for an additional period, and if so, what modifications are needed.

7. If there is a conflict between this Agreement and University policies incorporated herein, the provisions of this Agreement will govern.

8. This Agreement has been entered under and shall be governed by the laws of the State of Iowa.

9. To the extent inconsistent herewith, this Agreement supersedes and replaces all prior written and oral agreements. Obligations with regard to the Letter of Intent between the Parties not otherwise contemplated by the terms of this Agreement shall remain effective between the Parties until satisfied.

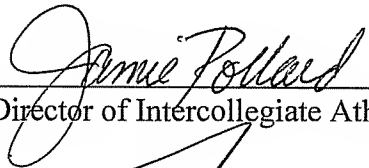
10. Notices to the parties shall be sent via reputable express courier, overnight mail or U.S. Certified Mail to the University at the Director's address and to Hoiberg at his personal address provided to the University with copy to The Legacy Agency, Inc. (attn: Jordan Bazant, 230 Park Avenue, Suite 851, New York, NY 10169; and The Sacks Group, PLLC (attn: Rand E. Sacks, Esq.), 5335 Wisconsin Ave., NW, Suite 720, Washington, DC 20015.

11. The failure of a party at any time to demand strict performance by the other party of any of the terms, covenants, or conditions set forth herein shall not be construed as a continuing waiver or relinquishment thereof, and a party may at any time demand strict and complete performance by the other party of said terms, covenants, and/or conditions.

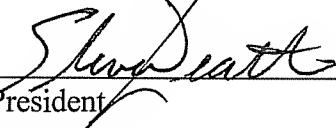
12. Each of the parties has participated in the negotiation and preparation of this Agreement and therefore waives any rule of law or judicial precedent that provides that contractual ambiguities are to be construed against the party who shall have drafted the contract in question. If any provision of this Agreement or the application thereof shall be invalid or unenforceable to any extent, the remainder of this Agreement or the application thereof shall not be affected, and each remaining provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. Paragraph headings contained hereunder are solely for the purpose of aiding in speedy location of subject matter and are not in any sense to be given weight in the construction of this Agreement.

13. Except as specifically provided in this Agreement, neither party waives any legal right or remedy, whether at law or equity, available to the party.

**Iowa State University**

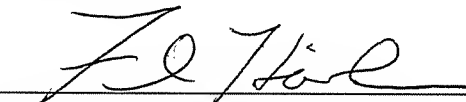
  
\_\_\_\_\_  
Director of Intercollegiate Athletics

6-11-12  
Date

  
\_\_\_\_\_  
President

6-21-12  
Date

**Fred Hoiberg**

  
\_\_\_\_\_  
Head Men's Basketball Coach

6-8-12  
Date